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6 HAROLD B. GLASSBERG, HAROLD B.  
AUERBACH, ROBERT L. POLLAK,  
GLASSBERG, POLLAK & ASSOCIATES

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

12 ADEIFE OMOTADE ) Case No: CV 07 5683 MMC  
13 Plaintiff, )  
14 vs. )  
15 HAROLD B. GLASSBERG, HAROLD B. )  
AUERBACH, JON-MICHAEL McSWEENEY, )  
ROBERT L. POLLAK, GLASSBERG, )  
POLLAK & ASSOCIATES, NORTHFIELD )  
MOUNT HERMON SCHOOL, A )  
CORPORATION, AND DOES 1-25 )  
16 )  
17 )  
18 Defendants. )  
19 )  
DEFENDANTS' HAROLD B. )

TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

22 PLEASE TAKE NOTICE that on January 4, 2008, at 9:00 a.m., or as soon thereafter as  
23 the matter may be heard, in the Courtroom of the Honorable Maxine M. Chesney, United States  
24 District Judge, in Courtroom 7 of the United States Courthouse located at 4050 Golden Gate  
25 Ave., San Francisco, California, defendants Harold B. Glassberg, Harold B. Auerbach, Robert L.  
26 Pollak, Jon-Michael McSweeny, and Glassberg Pollak & Associates (“Defendants”) will, and  
27 hereby do move the court to dismiss all of Plaintiff’s claims in its complaint.

1        This motion is made pursuant to Federal Rule of Civil Procedure 12 (b)(6) and is brought  
 2 upon the grounds that Plaintiff fails to state a claim against Defendants upon which relief may be  
 3 granted. Specifically, Plaintiff's causes of action fail on the following grounds:

4        (1) Plaintiff's causes of action for fraud, intentional infliction of emotional distress,  
 5 negligent infliction of emotional distress, constructive fraud, abuse of process, negligence, legal  
 6 malpractice, violation of the Rosenthal Fair Debt Collection Practices Act, and Unfair Business  
 7 Practices are barred by the California Litigation Privilege, Cal. Civ. Code § 47(b);

8        (2) Plaintiff's causes of action for constructive fraud, negligence and legal  
 9 malpractice fail as Defendants did not owe Plaintiff a legal duty;

10       (3) Plaintiff's causes of action for breach of contract and breach of the implied  
 11 covenant of good faith and fair dealing fail because Defendants did not enter into a contract with  
 12 Plaintiff;

13       (4) Plaintiff's cause of action for violation of the Fair Debt Collection Practices  
 14 ("FDCPA") Act fails because Defendants' alleged conduct does not amount to "communication"  
 15 under the FDCPA; and,

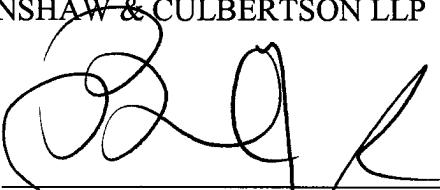
16       (5) Plaintiff does not plead a twelfth cause of action.

17       This motion is made upon the pleadings and proceedings had herein, Defendants' notice  
 18 of motion and motion to dismiss, plaintiff's memorandum of points and authorities filed in  
 19 support of this motion, and the reply brief to accompany this motion.

20 DATED: November 13, 2007

HINSHAW & CULBERTSON LLP

21 By:

22   
 23 BRADLEY M. ZAMCZYK  
 24 JOANNA BRAYNIN  
 25 Attorneys for Defendants HAROLD B.  
 26 GLASSBERG, HAROLD B. AUERBACH,  
 27 ROBERT L. POLLAK, GLASSBERG,  
 28 POLLAK & ASSOCIATES

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